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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,020	02/08/2001	Justin Y. Lee	17929-0002	7404
29052	7590	06/01/2005	EXAMINER	
SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309			CUFF, MICHAEL A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/780,020	LEE ET AL.	
	Examiner Michael Cuff	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6, 9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6, 9, 11-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 23-24 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: It is an independent method claim, which makes use of "external data". External data is not defined in the specification and it not required by the originally presented method. They are independent methods.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-24 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Specification

2. The specification is objected to for not having antecedent basis for the claimed term "position data". Applicant, bottom of page 10, cites paragraph 0020 and 0033 along with figure 21 to show support for this term. Applicant does not have a figure 21 and applicant's paragraphs are not labeled in this format either. Applicant does have file formats on pages 9 and 16, which do include coordinates. The examiner is assuming that the coordinates are the position data. This must be fixed and add no new matter.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the position data must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 13, 14 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 13, 14 and 17 show a series of steps which are grounded in the abstract idea of, for example, conveying, determining, and completing. The broadly recited steps do not recite sufficient computer structure that are within □technological arts□. Therefore, they do not satisfy the statutory requirements of 35 USC 101. See *In re Toma*, 197 USPQ 852 (CCPA 1978).

The changes to fix this issue are relatively minor. For example, changing network to an electronic network would meet the requirement. Notice that claim 13 is fine because it recites a distribution computing device.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 9, 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho et al. in view of Kleiman.

Cho et al. shows all of the limitations of the claims except for specifying the use of HTTP protocol, a web browser and the step of requesting updated scheduling files from the display system.

Cho et al. shows, figure 6 and columns 9-12, a point of purchase video (POS data) distribution system. The system is a video media distribution network including (1) a distribution center (display administrator) which transmits video program segments to the receiving sites, (2) receivers which receive the segments, (3) a tracking system which tracks the product movement at the receiving sites, (4) a network management system which forms playlists (storing a plurality of multimedia presentations) for each of the receiving sites in response to inputs from a user, and (5) display units (position data), which display the playlists in the receiving sites. The user, located in the distribution center, has access to the product movement information. The system uses video clips, a "wheel" concept (scheduling file), playlist, "playlist sockets", and a □store and forward" feature. The wheel is a cycle of time that represents the format which video clips are packaged. A wheel can be played over and over. A wheel may fill a □playlist socket□, which defines a start, and end time automatically (determining schedule). The □store and forward□ feature allows video segments to be stored in the receiving site and later forwarded to the display unit automatically by the system's network management software. Figure 6 shows a flowchart, which allows one to; depending on level of access, customize displays. (scanning, determining/assigning and modifying)

When playlists are created or updated, the program determines which additional video clips are needed at the stores and sets a pending flag (determines if a change has been made, timestamp or creation date is inherent). The pending flag remains with these additional video clips until they are uplinked to the store, which needs them. UPLINK loads the Uplink Form 295, (upload/download, transferring) which compiles the information required at the receiving sites for the playlists. MODEM loads the Modem Form 264, which gives the user elaborate modem communication with all the stores, which allows user to update playlists and perform system maintenance.

FIG. 6 is a process flow chart of the system's Socket Management Form (a remote storing computing device). Playlist sockets are places where a "wheel" (site-specific presentation, tab-delimited format, converting retrieved data into a form useful for populating respective fields) can be placed. When the user selects the PLAYLISTS option, the program enters the Socket Management Form 262 or 263, depending on the user's security level, and displays a list of all store sites, the list of sockets for store no. 1, as a default, and a list of all the available playlists 265. The user can then move through the list of stores displaying (playing presentation) the sockets for each store in the process. The Store Info Database and the Playlist Database provide the information needed for this display.

The user can then select from the available playlists to fill sockets of a particular store site 266. Each store site has its own number of sockets. For example, if a store is displaying 30-minute wheels of playlists for 18 hours, the store has 36 sockets, which must be filled with wheels of playlists. At this point, the user can also edit a playlist

Art Unit: 3627

and/or create a new playlist depending on the user's security level. To edit a playlist, the Edit Playlist Form 267 is loaded.

Kleinman teaches a system for selectively distributing music to a plurality of jukeboxes. The system includes the step of sending a request automatically for updated music from said jukebox to a central storage location, based on said statistics determined in said jukebox in order to better serve the customer.

Based on the teaching of Kleinman, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Cho et al. network communication system to incorporate the ability of Klenman to request updates initiating from the display system in order to better serve the customer.

The examiner takes Official notice that the use of HTTP protocol and a web browser are well known in the art and are used in order to provide better network communication.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify Cho et al. network communication system to incorporate the use of HTTP protocol and a web browser in order to provide better network communication.

Response to Arguments

6. Applicant's arguments filed 3/17/05 have been fully considered but they are not persuasive.

Applicant asserts that the word "determining" is sufficient to meet the requirements of 35 USC 101. The examiner does not concur. This is not a matter of examiner judgment. Page 8 of applicant's response indicates that applicant believes that the terms "distribution computing device" and "electronic network" are in bodies claims 1, 13, 14 and 17. They are not.

Applicant asserts that the prior art second wheel cannot start to be displayed until the first wheel has completed displaying. This is not relevant. Applicant has not explained what claim element is not shown because of this information if it is true.

Applicant asserts that the prior art does not show "position data". The examiner does not concur. The mere designation of a display unit shows "position data".

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3627

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Cuff 5/29/05
Michael Cuff
May 29, 2005